

1883-017 Chancery Causes: Cdn. of Precious Long to by us. Precious Long to Lee Co.

Ely, Holliday, Beauty, Baylor, Hatcher, Hollady, McNeil, Hamblen, 1 Plat
Peak, Morgan, Brown, Ewing

CH-Estate Dispute
T-Property

To The Honorable John A Kelly Judge of the
Circuit Court of Lee County Va.

The bill of complaint of Thomas S.
Ely guardian, of Precious Long, Henry Long
Alice Long and Magnus Long infant children
of James S. Long and Delitha Long now deceased.
The master of his said wards, was an only child
of the first wife of Henry Hamblin, deceased,
and Mrs. Hamblin was one of the heirs at law of
Robert Ely deceased, and in right of their said
master, their descended to his words, a small but
valuable lot of 25 acres, in the division of the said
Robert Ely's estate, this being No 4, as shown by
the plat & report of the Commissioners making same
portions a transcript of which marked A. accom-
panies this bill. This land lies about 6 miles
S. W. from Foursville, in this County, It is now
and has been for years, viz since 1871 to 1876 inclu-
sive in the possession of one Francis Halliday, who
is the vendee of John M. Beatty now deceased. The
said John S. Long father of your orators, words in
his lifetime undertook to sell said lands to the
said John M. Beatty, and he did as your orator
is advised convey his life estate therein, and put
the said Beatty in the possession thereof, who
remained in the possession upto the time of his sale
to said Halliday; The said James S. Long departed
this life in the year 1866, and from and after that

time up to and including the year 1870, the said Beatty should as your orator is advised be held liable for the rents & profits, to your orator.

As before stated these lands consist of 25 acres of good & valuable land, situated in centre of large tract owned by said Halliday, but there is no fencing timber to support it, and his words are no adjacent. This lot of peculiar value & advantage to the said Halliday will bring a full and fair price and your orator alleges that it would be greatly to the advantage of his words, to sell the same, and invest the proceeds in other lands, which your orator alleges can be done to great advantage. To have an account of these matters fully settled, your orator, will first state that since the sale by said Beatty to said Halliday the said Beatty has departed this life intestate and his estate has descended to his children as his heirs at law viz: Richard B. Beatty, Napoleon B. Beatty, Samuel M. Beatty, Wm. H. Beatty, John P. Beatty, Harriett Bayler, formerly Beatty wife of Charles E. Bayler, Emily Hatcher formerly Beatty wife of Jackson Hatcher and Cornelia Beatty, to these children as his heirs there has descended to each an estate to the amount of about of \$3000. and your orator is advised that they would be liable to extent of assets received, which is greatly over, what would be necessary to pay the amount due your orator. The object of this bill therefore is to have said land

sold and the proceeds invested in other lands in
this county, more advantageously situated for his
said wifes, to have an account taken, of the
rents due & owing his said wifes from the said
John M. Beatty in his lifetime, and from the said
Halliday since his purchase thereof. But should he
be mistaken in the, intent his wifes may here
to have said lands sold then that the account be
directed before some competent officer of this court.

His prayer therefore is that Francis Halliday, Richard
~~D. Beatty, Napoleon D. Beatty, Samuel M. Beatty,~~
~~Wm. H. Beatty, John P. Beatty,~~ ^{Reporters to the Court} ~~Namont Bayles his~~
~~wife Jacobus Hatcher, Emily Hatcher his wife~~
~~Henrietta Beatty, Presious Long, Henry Long,~~
~~Alice Long and Magnus Long,~~ the last five of whom
are infants under 21 years be made parties de
fendants. To this bill and answer its allegations
on oath, that a guardian ad litem be appointed
to answer and defend the said infants, and on a
hearing a decree be rendered, directing said lands
to be sold and the proceeds re-invested in other
real estate, under the order of this court; that
an account be rendered of the rents and profits
of said lands; and for all other further & general
relief may lawfully issue &c.

I Agar & Pridemore

Co 2.00
 4 15.00
 8 8.00
 8.00
 9.00
 \$46.00

Estimates 51.00
 Orr Clk 1.48 July 1879
 H. Clerk 4.02

HTP

Thomas S. Ely Guardian

vs Bill chry.
 Pricious Long et al

1876 June Bill filed, Spas
 Executed & Decree nisi;
 11m & Orr apptd. A. S. for
 the Defendant to file
 their answer.
 " July Decree nisi vs adults
 Confirmed & Contd.
 " Aug Set for hearing by Pltff.
 1876 Aug & 1st Contd.
 1877 Mar Contd.
 " Aug Decree.
 " Nov Contd.
 1878 Mar 1st Contd.
 " Nov Contd.
 1879 Mar Contd.
 " Nov Decree & Contd.
 1880 Mar " & "
 1881 Mar Decree & Contd.
 " Aug Contd.
 1882 3 Contd this year
 1883 March Decree & Contd.
 " Aug Contd. Decree nisi

Francis Hollady Deft

ads. } Summer

Thomas S. Ely Guardian & Co.

The Defendant say that the plaintiffs bill is
 not sufficient in law.
 Biller for Deft.

Thomas J. Ely Guardian H.C. Plff }

against

Precious Long & others Defs. }

To the Honorable John A. Kelly Judge
Francis Hollady a Defendant in this Cause
respectfully represents that he has bought
out the entire interest of the Defendant
Precious Long in the land and rents
and proceeds of the Sale of the land
and he has ~~paid her~~ ^{paid for it}
And he asks that her proportion of
all the land and proceeds of the Sale
thereof and her interest in the money
decreed to her shall be paid to him
And that if necessary the Said Precious
Long be made a further party to
this Suit she having heretofore an-
swered by Guardian ad litem,

~~Francis Hollady~~
The Said Precious Long having become
of Age after the Suit was brought

Francis Hollady
By David Miller his
Attorney.

Thomas J. Ely
guardian &c.
vs. } Petition
of Francis
Holladay
Precious Long
& others

To the Honorable John S. Kelly Judge of the
Circuit Court of Lee county Va.

The Joint answer, of Precious Long, Henry Long
^{Mary & Alice Long} and Alice Long, infant children and heirs at
Law, of Delitta Long deceased, to a bill filed
in this Honorable Court by Thomas S. Ely their
Guardian against them and others.

Respondents say they are over 14 years of age
and so far as they are competent to understand
their rights they believe it to be to their ad-
vantage to see the Land, sought to be sold
by their said Guardian, and so far as they
are capable of consenting to consent thereto.
~~their said Guardian Mary & Henry Long and Alice Long~~
~~respondents are not of legal age.~~

These respondents do not know of
any reason or fact necessary to be stated
against said sale. They in consideration
of their tender years claim the Guardian protec-
tion of this Honorable Court - and having now
fully answered they pray hence to be dismissed
with their costs.

May & Precious

This day Precious Long, Alice Long ^{Mary & Henry Long} and Henry Long
personally appeared before me & made oath the facts
stated in the foregoing answer are true. Given under my
hand this Sept 5th 1878. John B. West, Notary Public for

Puccius Long et al

ad 3. Answer

Thomas S. Ely Guerdine

Filed Sept 5th 1878
Jas W Orr Clk.

This I Ely Guardian }

N 3

Demmer

J. Holaday et als

The deft Holaday comes
and defends the wrongs and
injuries done him when he and
demmer to the jef's bill because
he says the matters and things
as alleged in the same against
this deft are not good and
sufficient in Law for the jef
to maintain the same upon
against this deft. This he is ready
to verify, wherefore he prays
Judgment of the Court thereupon

Miller & Busas for

Holaday.

Ely Guardian

N³

{ Demure

Holmes

Filed. April 3rd 1878.
Jas W Orr. Clerk.

To the Honorable John A. Kelly Judge,
The Answer of Precious Long to the rule
Awarded against her in the Cause of Thomas
S. Ely Guardian & C. Against Francis
Hollady & others and for Answer to Said
Rules She Says that Since She has
become 21 years of ^{age} She has sold ^{assigned} and
Conveyed her interest in this Suit that is
the interest in the lands and the proceeds
thereof and the rents & profits thereof
to the Defendant Francis Hollady and
She desires him ^{to have} the benefits thereof the same
as she would herself if she had not
sold to him and she only holds Mr.
Hollady bound to her for whatever she
is entitled to out of the proceeds of Sale
and the land & rents and profits and
having answered she prays to be dis-
missed with her Costs.

Rhoda P Long

Virginia, Lee County So with;

This day personally appeared before the un-
dersigned a Justice of the Peace in & for the County
& State aforesaid, ^{Rhoda P. Long} and made oath that the facts
stated in the foregoing answer are true to the
best of her knowledge & belief. Given under
my hand this the 23rd day of March 1880
J. R. Stickley J.P.

Thomas S. Ely Guardian
H.C. } Answer of
vs. } Precious Long
Precious Long & others

Virginia Lee circuit court

To the Honorable Judge of the
said court, The answer of Francis
Hutch to the Bill filed in this
Honorable court against him
and others by Shos S Ely quince
and re

This respondent for answer
to the Bill states that his son
Beatty bought the Land in fee
from Long and wife the ancestor
of the wards and paid them for
it they conveyed it to Beatty by
a joint deed, and he took
possession of it claiming it
as his under his deed against
the wards & their ancestors and
all the world, until he sold
it to respondent, who for a
full price bought the fee and
took possession of it claiming
it as his own under his purchase
from Beatty. Beatty could not
hold as a tenant to the wards
ancestors, nor to the wards after
their ancestors died, nor did
this respondent ever hold as
tenant to any one, But he held
independently, whether the deed

of Long & wife passes the title of
the wife or not is a question
for the Court, it was intended
to convey her rights as well as
her husband's, and Beatty in his
time and your respondent
since his purchase he had in
and claimed the fee in and
to said land, and never
looked to the wards or their
ancestors for title or portion
in the possession after they
~~the ancestors~~
conveyed it to Beatty, a copy
of the deed is here filed marked
A and made a part of this
answer, he denies that he is
accountable to the plf or his
wards for rents, he denies
that a court of Chancery in
this form of proceeding has
jurisdiction to assess rents
against him, He pleads
and relies on the statute
of limitations as a bar to all
claim for rents, having fully
answered the Bill, and here now
generally denying each allegati-
on of the Bill, not herein specially

considered he prays to be hence
dismissed, with his reasonable
costs.

Burns & Miller

For deft Holliday

Virginia, Lee County, to wit.

This day Francis Holliday personally ap-
peared before me and made oath that the
facts stated in the foregoing answer so far
as stated from his own knowledge are true,
and so far as stated upon information ~~derived~~
~~and~~ derived from others he believes them
to be true. Given under my hand this
April 2nd 1878.

Jas W Orr, Clerk.

Holmes

103

{ Answer

J S Ely Guardian

Filed, April 3rd 1878,
Jas W Orr. Clerk.

To the Honorable John A. Kelly Judge of
the Circuit Court of Lee County, Va

The answer of ~~Cornelia Beatty~~,
Lucius Lang, Henry Lang, Alice Lang,
and Magnus Lang, infants, to a Bill
filed in this honorable court against respon-
dents and others by Thomas S. Ely
Guardian T.^e — by William A. Orr
their guardian ad litem. Answer-
ing respondent says that he is not
advised of any defence that he can
make to said bill, and his Wards
being young and tender in years
can not inform him of any.
But courts of Equity being the peculiar
guardians of the rights and interests
of infants your Respondent begs
leave to place the rights and interests
of his said Wards into the hands of
your Honor, knowing that they
will there be protected. Having
answered as fully as is deemed necessary
your Respondent prays that his Wards
be hence dismissed with their costs
Wm A. Orr.

Guardian ad litem

Suborn to before me by Wm A Orr. May 6th 1876.

James W Orr, Clerk.

Thos S. Ely Guardian 7^o

vs  Adv. Guardian ad -
litum

Precious Long et al

1876 June this answer
filed.

James W Orr. clerk

Fin p 5 -

Thomas S. Ely executor.

Against

Plffs.

Precious Long, et al,

deft.

} In chancery

This cause came on again to be heard this day upon the papers formerly read; and the report of A. L. Pridemore Special Commissioner, accompanied by the deed directed to be made by him by a former order; and was argued by Counsel.

And no exceptions being taken to either report or deed and the same being seen and inspected by the Court, they ^{are} and each of them is confirmed & made final -

And the said John McAffie is ordered to pay to said Commissioner the sum of \$5.00 for making & executing said deed; and when so paid he will deliver the same to him - And no further action being necessary this cause is stricken from the docket.

Thomas S. Elleguador

to Decree

Final.

Principes Long et al
Nov. 7. 1883

Entered page 352

J. A. Hyatt
clerk

Enter this.
Nov. 29 1883
In A.K.

Thomas S. Ely guard & Off }
Against } In Chy.
Precious Long et al's depts }

This cause came on again this day
to be heard upon the papers formerly
read and the report of A. L. Pridemore
this day filed. And was argued by Coun-
sel. And it appearing from said report
to which there are no exceptions that the
purchaser is entitled to a deed to the
land in the bill mentioned he having
paid all the purchase money due
from him. A. L. Pridemore who is
hereby appointed a special Com-
missioner therefore will make &
execute to the purchaser John
McAfee a deed with Covenants of
special warranty for the land so sold
to him, and report the execution thereof
to some future day of this term - and
the cause is continued until the coming in
of said report.

Thomas S. Ely guardian

v^s 3
Decur

Orison Long et al

March 7. 1883

Entered page 310.

J. A. Hyatt
Clerk

Enter this date

April 2. 1883

J. A. Hyatt

Thomas L. Elguera & Co. Refs. } In chq.
against }
Precious Long & Co. Refs.

This cause came on this day again to be heard
upon the papers formerly read in the report of
L. L. Prudhomme Esq. this day filed to which
there are no exceptions, and was argued by counsel
on consideration whereof and for reasons appearing
to the Court said report is confirmed, and said
Commissioner directed to collect the said purchase
money, after executing the bond provided in the
former decree, and he will then pay out the same
as therein directed, by said decree, & report his
actual to this Court & the cause is continued.

Thomas D. Ely Surveyor

24 Decr.

Prison Log et al

Entered Page 192

John C. Orr. D.C.

Exhibit this.

Exhibit 7 J. A. K.

Thomas S. Ely Guardian & Co.
Against
Precious Long & others

Plff } In Chy
Defts }

This Cause Come on this day to be heard
upon the papers formerly read and the rule
awarded against the Defendant Precious
Long and Thomas S. Ely and the Said Precious
Long having appeared and filed her written
answer to said rule and the Said Thomas S. Ely
still failing to appear and answer said rule
the Court hereby directs that the share in the
purchase money and the interest in the rents
and profits of the Said Precious Long
be paid to the Defendant Francis Hollady

Thomas S. Ely guardian ^{vs.}

vs. } Decree

Precious Long Votter

Entered on p 113.

Teste - Jas. W. Orr, Clerk

Enter

In AX

Apr. 1/80

Thomas S. Ely Guardian &c. Plffs.

against

Orucius Long & others Defts.

} Incls.

This cause came on again this day to be heard upon the papers formerly read and the report of A-L Prudenore Commissioner filed Oct. 28th 1879, on consideration whereof and for reasons appearing to the court the said report being un-exceptioned to the same is confirmed, and ^{said sale} made final, and it appearing that the purchase money will fall due before the next term of this Court, said Commissioner Prudenore is hereby directed to collect said purchase money as the same falls due & pay over to the plffs. ^{as hereinafter directed} But before collecting any sums under this decree he will execute bond in the penalty of \$200, conditioned to duly perform the duties of this order. And before paying out to the plff the sums hereunder, he will ascertain & report the names & solvency of the plffs and ~~the~~ recumit's on his official bond & ~~report their condition to the Court at its next term.~~ And it being suggested to the court that Francis Halliday has purchased the interest of Orucius Long, in this suit, leave is given him to

file his petition in this cause setting up this fact; making the said Precious a party thereto she having now arrived at the ~~age of~~ 24 years of age, and the said Commr. Padonax will not pay out the said Precious interest until the future order of this court. He will report his actual to ~~this court~~ ^{this court} at its next term ~~and the~~ ~~cause is continued~~; and the petition of said Holliday being now filed, a rule is awarded against Precious, Long, and Thomas S. Ely, ^{returnable to the next term,} to show cause, if any they can, why the share of Precious Long in the purchase money should not be paid to David Francis Holliday and why her interests in the rents, recovered against said Holliday, should not be added on the decree ~~therefor~~ ^{in the cause}.

Thos. S. Ely surrenders

vs decree

Precious Long et al

Nov. 5. 1879

Cost Page 60 & 61.

James W. Orr Clerk.

David Holliday

Enter this decree
Dec. 2^d 1879
J. W. Orr

Entered Page 16.
R. W. Orr Jr. Sec

Thomas S. Ely Guardian etc.
vs 3 decrees Aug. 3. 1878
Precious Long et al.

And the answer of Precious Long, Henry Long
Magnus Maple Long, and Alice Long, all infants, over
14 years of age, & apply to the court

Thomas S. Ely Guardian etc. Plff.
Against
Precious Long et al. Defs.

} in ch.

This cause came on again to be heard this day upon the papers formerly read, the report and supplemental report of Henry J. Morgan, filed March 19th 1878, and exceptions thereto by the plaintiff and defendant Francis Holliday; and the agreement of the parties filed in the papers of this cause, marked B, and dated Aug. 18th 1878. And was argued by counsel. On consideration whereof & for reasons appearing to the court, the exceptions aforesaid are each overruled & said reports adopted & confirmed as herein after modified. And it appearing by the consent order rendered in this cause, on the 6th day of Sept 1877, that said Commissioner was directed to ascertain how long said lands in the bill mentioned had been held by Francis Holliday and the rental value thereof; and by the said agreement filed in this cause the rights of the parties are agreed to be settled in this suit the court doth adjudge order & decree, that the plff recover the possession of said lands from defendant Francis Holliday, and that on account of the rents & profits, thereof that the pl. ff. recover from defendant Francis Holliday

Enter this decree
Sept. 8th 1878. J. W. H.

The sum of \$300. and interest thereon from the first day of January 1878, and that he recover from said Holliday for the occupancy of said land for the year 1878, ^{to expire the 31 Decr next} the sum of \$37.50. and the cost, incurred by taking the account of such rents & profits to be taxed by the clerk. — And it further appearing to the court that said land cannot be conveniently partitioned among the infants, and that it is to their interest that the same be sold. The court do the further adjudge order & decree that A. L. Ponderson who is hereby appointed a special commissioner therefor do sell on some court day, in front of the Court House door by public out cry to the highest bidder, on credit of one ^{+ three} two years ^{there} the said 25 acre tract of land in the bill mentioned. He will require a sufficient sum to be paid down to pay the costs of suit & sale and for the unpaid acquire bonds with good personal security, bearing interest from day of sale. Before proceeding to sell however he will advertise the same for at least 30 days on the front door of the Court House of this County and in the neighborhood where the land lies or if deemed advisable by him in the "Lee County Sentinel" He will report his actions to this court at some future time & the cause is continued.

Thomas S. Ely Guardian &c
against
Precious Long et al.
~~Thomas S. Ely Guardian &c.~~

} In chancery.

On the motion
of the plff ^{Wm. A. Orr} ~~Wm. A. Orr~~, is appointed
guardian ad litem for Precious Long
Henry Long Alice Long and Magnus Long,
infants and upon his motion leave is
granted him to file his answer which is
done, and therefore this cause came on
this day to be heard upon the papers
~~formerly filed in the bill of the plff~~
or demurer thereto & finally in demurer, the
answer of Precious Long, Henry Long Alice
Long and Magnus Long by ^{Wm. A. Orr} ~~Wm. A. Orr~~ their
guardian ad litem, and replication therein
and the answer of Francis Halliday and repli-
cation thereto and was agreed by consent.

On consideration whereof & for reasons
appearing to the Court said demurer is over-
ruled & sustained, and the plff given leave to
amend his bill at bar, which is done &
thereupon by the consent of parties the
following decree is rendered: - That Henry
J. Morgan ascertain & report the location of
said lands by metes & bounds, to do which
he may employ a competent surveyor, - He
will also ascertain and report, how long the de-
fendant Halliday has had said lands in
his possession and what are the reasonable

rents & profits annually. He will also examine any witnesses produced by either party and reduce their statements to writing, and file the same with his report. He will cause a plat of said land to be made out & file it also. He will also ascertain whether or not said land could be conveniently partitioned among the infants or not. He will report his actions to this Court at some future term to which time the cause is continued ~~and if it appear~~ and the Heirs of John M. Beatty deceased recover of the Plffs an attorneys fee

Thomas S. Ealy Esq. Clerk

W.D. Decree

Pracius Long et al

Aug. 5. 1877.

Entered page 645

R. W. Ormiston

attas fee

Entered this decree
Sept. 6 1877
J. H. A. K.

Virginia,

At a Circuit Court continued and held for Lee
County, at the Court House thereof, on Tuesday, December
2nd 1879.

Thos. S. Ely, Guardian &c.
against

Plaintiff

Precious Long et al.

Defendants

In Chancery.

This cause came on again this day to be heard upon the papers
formerly read, and the report of A. L. Pridemore, Commissioner,
filed Oct. 29th 1879. On consideration whereof, and for reasons
appearing to the Court, the said report being unexcepted to, is
confirmed, and said sale made final, and it appearing
that the purchase money will fall due before the next term of
this Court, said Commissioner is hereby directed to collect
said purchase money as the same falls due, and pay over
to the Plaintiff as hereinafter directed. But before collecting
any sums under this decree, he will execute bond in the
penalty of \$200.⁰⁰, conditioned to duly perform the duties
of this order. And before paying out to the Plaintiff the sums
hereunder, he will ascertain and report the name & solvency
of the Plaintiff's securities, in his Official Bond, to this Court, at
its next term. And it being suggested to the Court that Fran-
cis Holliday has purchased the interest of Precious Long in this
suit, leave is given him to file his petition in this cause, setting
up this fact, making the said Precious a party thereto, she
having now arrived at the age of 21 years, and the said Commis-
sioner Pridemore will not pay out the said Precious' interest
until the further order of this Court. He will report his action
to this Court at its next term. And the petition of Francis Holli-
day being now filed, a rule is awarded against Precious Long
and Thomas S. Ely, returnable to the next term, to shew cause,
if any they can, why the share of Precious Long &c. x x x

Teste James W. Orr, Clerk.

Thos. S. Ely, Guard^{re}.

vs. } Copy of Decree.

Precious Long et al.

Executed by delivering
a copy of within to
Precious Long & Thos S
Ely. France Mills, D.
for Thos. S. Ely & Co

To the Honorable John A. Kelly Judge
of the Circuit Court of Lee County:

After I become of age I sold
out all my right title and interest
in the rents and profits of the
lot of land that was in Mr. Holladys
possession and made him a deed to
the land and I want him to
have all the land and money that
I was entitled to ^{as the owner of said land} and I direct that
it be paid to him instead of myself.
I hold Mr. Holladys note for the
balance he owes me and I am
willing to risk him for it,
Witness my hand and seal this
December 1st 1879.

Rhoda P. Long

Seal
Rhoda P. Long

Virginia Lee County to wit:

This Day Rhoda P. Long personally
^{a justice in and for Lee County}
appeared before me and acknowl-
ged the above writing to be her
act and deed. This Dec 1st
1879.

J. J. Gilbert Jr. Jc.

Precious Long

To } Order
 } For Hollady

Francis Hollady

1. Commissioner's Office, Jonesville Va March 9th 1878.
Thos S. Cly, Guardian & Plff
vs. } In Chancery.
Precious Long & others Defts

The deposition of Alex C. McNeil and others, taken on the above mentioned day, as evidence on the part of the Plaintiff, taken with reference to the rental value of the land referred to in the proceedings in this suit.

The said McNeil, being duly sworn, says, that, at the request of the ~~request~~ of the Plaintiff I went upon the land which is the subject of controversy in this suit, on the 7th inst, with the view of ascertaining the rental value thereof from the year — 1870, to the present time, including the year 1877; I regard something more than half of the land as being very good, a part of the residue is tolerably fair land, while the other part is rather thin and poor, but the whole of it lies well, and is beautifully situated for cultivation; and my opinion is, that said lands ought reasonably to be worth per year from 1870 to 1877 inclusive, the sum of \$50.⁰⁰, exclusive of taxes; and, if the taxes paid by Mr Holiday should not exceed \$3.⁰⁰ per year on said land, then \$47.⁰⁰ would be a fair price for said lands, exclusive of taxes.

Situated is this land is, I am satisfied in my

own mind, that the interest of the infant defendants would be promoted by a sale thereof, and I could give my reasons therefor, but do not deem the same necessary.

My estimate is made from the ~~present~~ appearance of the land, and I do not know what its condition was at the time Mr O'Holiday got possession of it, nor do I know what improvements he has placed thereon in the way of manuring it. But, I have all along, from the time Mr O'Holiday got possession of it to the present time, been inspecting it frequently, and am of opinion, that the East end of the tract was rich enough to have brought good crops. It is, compared with the West end, comparatively new, but it has, ^{at the same time,} been cleared a long time.

And further this witness saith not.

A. C. McNeil

Champ J. Hamlen, another witness for the Plaintiff, being duly sworn, says, That some two or three years ago, I went over the land which is the subject of this suit, for an other purpose than the one now under consideration; I live, however, in the neighborhood, and am well acquainted with the land. My opinion is, that, inasmuch as Mr O'Holiday has paid the taxes thereon & kept up the repairs that were necessary, he ought to pay to the infant Plaintiffs, in the way of rent, about \$28.25

per year, from the years 1870 to 1877 inclusive.
And further this witness saith not.

C. L. Young, T. J. Campbell

Stouck Peak, a witness for the deft, being duly sworn, says, I have known the land which is the subject of this suit about 8 years, having lived in that neighborhood about six years. I have lived on the Holiday land, near this piece, about two years, and have cultivated land adjoining it; and, from the knowledge thus derived, my opinion is, that the lands, on an average, for the years 1870 to 1877 inclusive, would not be reasonably worth more than 50 cts an acre each of said years, or \$12.50 per year for the tract or piece, Mr Holiday paying the taxes and keeping up the repairs. The land is now much better than it was when Mr Holiday got possession of it, he has ^{so} farmed it, according to my opinion, as to improve it each year. ^{on an average,} So, that the land is now worth much more than it was when he got it, and hence the estimate above.

As to the East end of this piece, as well as I can recollect, there have three crops of corn raised on it ~~and~~ ^{and} ~~two~~ ^{two} ~~of~~ ^{of} ~~and~~ ^{of} clover, and three ^{years} in wheat, and as to the 8th crop I do not know what it was. I remember that Mr Holiday hauled out on this Eastern part

a large lot of old Clover hay & chaff, which was suffered to lie there and rot, & thereby improve the land. As to the Western part, I do not remember of but one crop of corn being raised thereon, it has some times been cultivated in small grain, ^{perhaps 3 years,} and ~~the balance of the time~~ ^{but} more generally I believe, it has been suffered to lie as pasture land. I also remember that Mr Holiday, on this Western piece, hauled out and the

And further this witness saith not.

Wash Peak

Thos. J. Morgan, another witness for the deft, being duly sworn, says, I have known the land all the time that Mr Holiday has had possession of it; I lived upon the same farm a year before Mr Holiday bought it & lived in the neighborhood of it ever since. I, therefore, think that I know the land well. Since Mr Holiday has had possession of the land, I think he has greatly improved it in his manner of cultivation & otherwise, so that it will now, according to my judge, bring a far better crop than when he got it; he has also paid the taxes thereon, as I am informed, and has kept up such repairs as was necessary, so that upon the whole, my opinion is, that the improvement upon the land, the taxes, and the repairs are equal in value to the annual rental value thereof, and further this witness saith not.

his
Thos. J. Morgan
Mark

5. Richard Brown, another witness for the Def^t, being duly sworn, says, I came to this County with Mr. Holiday and lived upon the farm bought by Mr. Holiday from Mr. Beatty, of which the land in controversy is a part, about four years; I then moved from that place to another place in the same neighborhood, where I still reside. I, therefore, think that I am well acquainted with the 25 acres in controversy.

I knew the condition of the land when Holiday got and I think I know its present condition. I aided in gathering the crop of corn which had been raised on the Eastern part of this piece the year before Mr. Holiday got it, and I do not think that it yielded that year more than 25 bushels per acre, and the next year the same field was cultivated in corn, when I do not think it produced more than 20 bushels per acre, the next year it was cultivated in oats, the next year in wheat, it was then in clover two years, ~~it was then two years in clover,~~ and the two following years in corn when, according to my opinion, it brought forty bushels per acre, and it is now sown in wheat.

As to the Western part of this piece, the principal part thereof has been cultivated in corn one year, in wheat three, and the balance of the time it has been in clover and pasture land. I remember that there was a considerable quantity of straw & litter hauled upon the Western part, in the way of manure.

Mr Holiday has paid the taxes on the land, as I am informed, he has also made such repairs as was necessary, and has cleared it up well, and has greatly improved it from what it was when he got it. So, that upon the whole, taking into consideration the taxes, the improvements & repairs the condition the land was in when he got it & the condition the land is now in, my opinion is, that 50 cts an acre per year would be a fair rental value for said land over and above taxes & improvements.

And further this witness saith not.

Richard ^{his} X Brown

George Holiday, another witness for the Deft, ^{mark} being duly sworn, says, I am the son of the Defendant Francis Holiday. I have lived upon the farm ever since the Defendant has lived there, I know the condition of this particular ^{piece} of land at the time he got possession of it, and I know its present condition. The land is now much better than it was when the Deft got possession of it, the land is not only better, but it is in a much state of cultivation. I am also familiar with such improvements and repairs as have been made thereon, and the taxes thereon have been paid by the Deft Holiday & from my knowledge of all these matters, my opinion is, that taking into consideration the condition the land was in when my father got it, and

its present condition, the taxes paid by him, & the other necessary repairs, that over and above these, a fair rental value thereof would be less than the value of said taxes, improvements & repairs. ~~to say the least of it, we would off set the other~~ I am further of opinion, that taking into consideration the taxes that have been paid upon the land the repairs that have been made, and the actual improvement upon the land, that one year with another, for the last 8 years, these items in the aggregate, would amount to \$50.⁰⁰ per year on an average; and I am further of opinion, that this 25 acres of land, since my father has had possession of it, was reasonably worth ^{not} more ~~than~~ \$1.⁰⁰ per acre for each year, notwithstanding what I have before said.

And further this witness saith not.

George Holliday

Virginia Sec County Court

The foregoing depositions of A. C. McMillan, Charles T. Hamblen, Robt. Deak, Thomas Morgan, Richard Brown and George Holliday, were taken before me sworn to and subscribed by them respectively at the time and place and for the purposes mentioned in the caption.

Henry J. Morgan Clerk

Thomas S. Ely Guard,

v. { Depositions

Francis Holliday

(B)

1. Commissioner's Office, Jonestown Va., March 16/78.
Thos. S. Elly, Guardian &c. Plff.
vs. Defts. } In Chy.
Francis Holiday & others

The deposition of R. M. Hambleton & others, taken on this, 16th, day of March 1878, in the presence of the Plaintiff & the Deft Francis Holiday to be further read as evidence in making the report in the above styled cause by the undersigned Commissioner

Said R. M. Hambleton, being sworn, says: I live within about a mile of the land under consideration, and have lived that near to it ^{nearly} all my life. I aided in clearing a part of it, and I also cultivated a part of it in years gone by, when the land was more fresh than now.

Knowing the land as I do, my opinion is that if the same had been cultivated as a prudent farmer would cultivate his own land, that is to say, one year in Corn, one in oats, & one in wheat, and thus on alternating, that these lands thus cultivated during the last 8 years, ought to be reasonably worth \$2.00 per acre for each year, out of which ought to be deducted the taxes thereon & the value of any permanent improvements. I am the uncle to the mother of the wards of the Plaintiff

I do not know of any permanent improvements having been made thereon. I do remember, however,

of some hay being stacked thereon, and this is about all I know in relation thereto, and I suppose that the deft Holliday has incurred some expense in the way of repairing fences, for I remember recently to have seen one of the fences just repaired.

The West end of this 25-acre tract has been cleared and cultivated much longer than the East end or what was once known as the Graham field but what proportion this bears to the whole, I cannot say certainly, not having measured it. I think, however, I would be safe in saying, that it comprises considerably less than half the entire tract. And further this witness saith not.

W. M. Hamblen

Joseph St. Ewing, another witness for the plff, being sworn, says: my wife was first Cousin to the mother of the Plaintiff, I live about $1\frac{1}{2}$ or 2 miles from the land which is the subject of this suit I am 40 odd years old, and I have lived where I now do all my life, and consequently I have known this land a long time. I have passed by the land frequently during the past 8 years.

I have heard read the deposition of Mr Hamblen and, as to the annual rental value of said lands, I concur with him, upon the same basis of his estimate.

I remember that some or all this land had clover upon it a part of the time since Mr Holliday has had possession of it, and I also remember

to have seen some hay stacked upon it, and I suppose that Mr Holliday has repaired the fences around it. I saw his "hands" on one occasion repairing a line of fence running on the East end of it, but they were not, at the time, actually on this piece. I know the fact that the East end of this piece is much better land than the West end, but the proportion which these separate parts bear to each other I cannot say. out of the estimate I have just adopted, the taxes upon the land & the value of permanent improvements, if any, should be deducted. There is now about 100 fannels of fence upon this piece, the East fence seems to have been recently repaired, and is a very good one, while the Western fence is only a moderate one and, as far as I observed, I saw no new rails upon it, but in the Eastern fence there are some new rails. Cedar land in that neighborhood, I think is generally estimated for taxation at about \$1.⁰⁰ per acre, while land, lying as this does, is generally rated at from \$10.⁰⁰ to \$12.⁰⁰ for the same purpose. And further this witness saith not.

jos. H. Curing

Dr N E Beaty another witness for the Plff
being sworn Says I am the reputed son of
John M. Beaty who sold the land to the deft
Halliday and lived upon the farm of which
this piece forms a part for a number of
years with my father. but dont recollect

precisely how long, and ^{from} my relations therewith it would seem that I ought to know all about it, and its capacity for production.

But I do not, and I do not now remember to have aided in making a crop thereon during the time my father lived there and I do not know what condition ^{particular} this land was in, when Mr Holliday got possession of the same. The east end of this piece I always regarded as good land, and a good deal better than the western part, my father as I thought, was a moderately good farmer and as I thought kept his farm in tolerable good condition. As to the east end of this piece, I think it is as good land as that for which I on one occasion refused to take two dollars per acre a year for in rent. But to make an average of this entire piece I do not believe that I am prepared to give an opinion as to its annual rental value.

And as to the part referred to by me as the eastern part, I cannot say how much there is of it, but that part lying east of a certain row of Peach trees is what I refer to as the eastern part. And further this witness saith not.

N. C. Beatty

Thos. Beatty (colored) another witness for the Plff, being

5, sworn, says: I was the slave of John M. Beaty until set free by the results of the late war and, with the exception of 2 years, I continued to live with said Beaty, from the close of the war down to 1869, the time when Beaty sold the land to Mr Holliday.

I have worked over the land, which ^{is} the subject of this suit often, but do not know exactly where the lines of this particular piece are, but from the conversation & talk which I have heard here today, I think I know very nearly where it is located. I have a good deal said here today about the old & the new land ^{the piece in} covered by this suit and, while I do not know how much there was of either with certainty, still I think, that the new piece spoken of so often was originally bounded on the West by a row of peach trees and, that, as the fence now stands, it is some distance West thereof; and, my opinion is, that as this last mentioned fence now stands, it throws on the East side thereof about 3 acres of what was once known as the "old land"; Or, in other words, about 3 acres have thus been added to what was once known as the new part thereof.

I lived with Mr Holliday 5 years immediately following his purchase from Beaty & cultivated a part of the land now under consideration, that part which I thus cultivated was the Western part. I did not gather this crop, but aided in the cultivation thereof, I do not know how much corn it yielded per acre, but my best estimate is, that it was a common crop, or rather

Thos. Beatty 1 day as Piff

a light crop, and my estimate of the quantity that I raised on it this year is about 10 Bushels per acre but the corn was not well cultivated, I only ploughed it twice & hoed the principal part of it twice. I think this sorry crop was attributable, at least in part, to bad farming, the want of work, & to some extent poor land.

I heard Beatty once say, that, on what was once known as the Graham field, he thought he had raised about 50 Bushels per acre, but the corn was not measured & the Graham field covered other lands partly besides the 25 acres in dispute. I think the year in which I heard Mr Beatty thus speak was about the 3^d year after Mr Beatty moved there, which was a good many years ago. I cannot form an estimate as to what this 25 acres would be reasonably worth in rental value per year. Not long before the war, John M. Beatty cultivated the Graham field in wheat which produced an excellent good crop, but I do not know the quantity it produced per acre. This land down to the time that Mr Beatty sold it was nearly every year turned over with a big plough & cultivated in corn, wheat, or oats and, I don't know of any material injury having been done it in the way of farming, further than the cultivation of the crops before spoken of & to this extent may not have been quite as productive as they were before the war. I remember that one year Mr Beatty put a quantity of lime upon the entire Graham field & some land lying west of it & after this fine crop of wheat above spoken of. Since Mr Holliday has had possession of the land, I don't remember of but one

crop, ^{of corn} being raised upon the Western part & that I have
already spoken of, there may have been others but I do
not remember them if they were raised; I remember
to have aided in cutting 2 crops of wheat off of the same
part, one of which was pretty good & the other rather poor
And further this witness saith not.

Thos ^{his} Beatty
mark

Virginia Lee County Court

The foregoing deposition of R. M. Hamblen
Joseph H. Ewing, N. E. Beatty and Thomas
Beatty was taken before me sworn to and
subscribed by them at the time and place
and for the purposes mentioned in the
caption

Henry J. Morgan Cor.
March 16 1878

Thos. S. Ely Guard

vs { Depositions

Precious Longtal.

(6)

Commissioners Office Jonesville Va. 187
Thomas S Ely Guardian &c. Deft. } In Chancery
vs. }
Precious Lang & others Defts }

To the Hon John A. Kelly Judge of the Circuit
Court of Lee County.

By a decree entered in this cause on the
6th. day of September 1877 I was directed to
make several enquiries in this cause, and to
report the results thereof to you, and having
done so beg leave to submit the following report.

The land which is the subject of this Suit,
is a part of a large tract once owned by Robert
Ely Sr. and which at his death descended to
his heirs at law - 14 in number, and by way
of showing the entire tract, and the several sub-di-
visions into which the same was partitioned
by commissioners among said heirs, I herewith
file a plat of said tract and such partition
marked (A) This plat was copied by me from
the Survey and plat as laid down by the com-
missioners who made said Partition.

The figures, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12 show the
outside lines of the entire tract which, contain-
ed about 569 acres

At the time said partition was made John
W. M. and Thomas Ely had bought out 6 of their
brothers and Sisters interest in said land, and

hence when the partition was made, they were assigned 330 acres in a body off of the South side, and west end of said tract, and the residue thereof was subdivided into six lots or parcels numbered from 1 to 6 inclusive as Shannahan said plots.

Lot No 1 was assigned to Hiram R. Ely, No 2 to Capt. Havelly wife, No 3 to John Hamblen wife, No 4 to Henry D. Hamblen wife, No 5 to D. A. Woodard wife and No 6 to Isaac Ely.

Lots No 1, 2, 3, 4 & 5 each contain 25 acres and is supposed to cover the better portion of said tract while lot No 6 contains 114 acres, but this is all or very near all rocky cedar land.

Lot No 4 is the one involved in this suit being the one assigned to H. D. Hamblen and is represented on said plot by the figures 1, 2, 3, 4 & 5 and contains 25 acres and is bounded as follows: Beginning at a stake at figure 1. thence N 70° E 182 poles & 7 links to a stake in the east line of the said Ely tract, at figure 2. thence with said east line N 39° W. about 25 1/2 poles to a stake in said line at figure 3, thence S 70° W. 168 poles and 20 links to a stake at figure 4, and thence S 8° E 25 poles and 5 links to the Beginning at 1 and the C.

The cause of descent of this land from the wife of H. D. Hamblen to whom it was assigned ^{to the heirs of the said H. D. Hamblen} is shown in my report in the chancery cause of Daugherty,

against Halliday and others, to which reference is here made if any one desires to see it.

By reference to said plot it will be seen that Lot No. 4 is situated nearly in the center of the farm now owned by Francis Halliday, and his land surrounds it on three sides, north, west and south and on the east adjoins some contiguous land owner, so that the same is entirely surrounded by other lands, and there is not perhaps a single tree standing upon it.

The land as you will see is a long square or nearly a parallelogram, and thus being its shape there is no difficulty in sub-dividing it into four equal parts and by doing so, give to each of the four infant defendants $6\frac{1}{4}$ acres.

Suppose that course is taken what would follow since there is neither water or wood upon it, and hemmed in on all sides without ingress or egress? Why to my mind the interest of each of said infants would be at the mercy of the contiguous land owners, neither share would be large enough to justify fencing and living upon, and neither one or all together would make it desirable for grazing purposes on account of water and could not be lived upon for want thereof, so in every view that I can take of it, I think the interest of the infant defendants demands that the same be sold in a body together, and hence I so report.

The defendant Holliday bought the entire Ely tract, with other lands adjacent thereto, about the 19th day of June 1869 from John M. Beatty now deceased, and while I do not know certainly when Mr Holliday took possession under said purchase, yet I think he took possession soon thereafter, or at all events I feel satisfied that he got such possession early enough to become chargeable with rents for the year 1870 and from thence on down to the present.

Tracking the value of rents per year, from the year 1870 to 1877 inclusive, I took the depositions of A. C. McNeil & Champ J. Hamblen for the Plaintiff, and that of Noah Peak, Thos J. Morgan, Richard Brown, and Geo. Holliday for the Defendant, which are herewith filed, marked (B). From these depositions, it will be seen, that these witnesses entertain quite different views as to the annual rental value of the land, Mr McNeil thinks it is worth \$50.00 per year or \$2.00 per acre, out of which the taxes would have to be deducted; Mr Hamblen is of opinion, that the same is worth \$1.25 per acre per year; Mr Peak & Mr Brown think the lands are reasonably worth 50 cts an acre per year; while said Morgan & Geo. Holliday are of opinion that, the land, on account of its present improved condition compared with what it was at the time the deft took possession of it, that the latter ought

5. not to be required to pay any rents therefor.

I have but little doubt in my own mind that the land has been materially improved by the defendant & I have no doubt but that Esq. Meinel made his estimate or formed his opinion, looking at the land as it now is. Mr. Hamblen doubtless formed his opinion from his knowledge of what the land was in 1870 & what it now is, and fixed his estimate as a sort of average running through its entire period of 8 years.

Mr. Peak, Mr. Brown, Mr. Morgan, and Mr. Holliday seem to base their opinions upon their knowledge of what the land produced, and the extent of the defendant's improvements thereon, especially in the way of improved farming. It is conceded by all parties, that this 25 acres piece of land lies exceedingly well, & every part of it cleared, and was and is enclosed by a tolerably good fence; and it is further conceded, that about 10 acres on the East part of this piece is good and productive land, and that it has all the time been capable of producing a good crop when well cultivated, and the proof shews that upon this part of this piece of land, a crop of some sort has been raised, nearly or quite each year that the defendant has had possession of it, while as to the Western part, the evidence shews that some 3 or 4 crops has been raised upon it & the ballance of the time, it has laid out as pasture land. Now, with reference to the improvements, all that

the evidence shews is, that on the Western part, a considerable quantity of litter was hauled thereon ~~from~~ from an old barn, and as to the Eastern part, a quantity of old Clover hay and chaff was hauled thereon, and permitted to lie & rot, and this is the extent of the improvements so far as the evidence written out by me is concerned.

But, Mr Holliday claimed, in his conversations before me, that the entire piece had been overgrown with briars and bushes to a considerable extent, that he cleared it of these obstructions, kept the fences which enclosed it repaired, and sowed it down in Clover, which he permitted to remain on it a year or two, and thereby improved the land, and these are the improvements according to the evidence and as claimed by the Defendant. And it is also admitted, that during the 8 years that Mr Holliday has held the land, he has paid the taxes thereon.

I regard all the witnesses who have testified in relation to this matter as being creditable witnesses and testified according to their honest judgments but they differed pretty widely in opinion, as men of strict uprightness and honesty very often do.

Now, taking all the evidence and circumstances into consideration, I am of opinion that the fair rental value of this land, from January 1st 1870 until Decr 31st 1877, would be about

or \$25.00 per year
\$200.00; and, as Mr Holliday has paid the taxes
which I suppose would amount to about \$3.00 per
year, that deducted from the annual rental value
would leave about \$2200 per year for this piece
of land; and Mr Holliday having held it 8 years
would give an aggregate sum of \$176.00 to be
paid by him to the Plaintiff, for the benefit of his in-
fant wards; and as this is a pretty hard case
upon Mr Holliday, I would suggest that he
be only required to pay interest upon that sum from
Jan'y 1st 1878. But, if your Honor should be
of opinion, that the wards should have interest
upon said \$22.00 from the end of each current
year, that object can be easily attained, by
~~so~~ providing in any decree that may rendered in
the cause.

In the lifetime of Jas. S. Long, the father of the Plff's
wards, he sold this piece of land, which came
thro' his then wife, to John M. Beatty, and received
the money therefor, when the said Long and wife
undertook to convey the same to Beatty, and no
doubt thought they had done so. But, it turns
out that the Certificate of acknowledgement of
the wife of said Long was insufficient to pass the
title in her, and she having since died, the
land, which is the subject of this suit, descends
to the wards of the Plaintiff. All which is re-
spectfully submitted. Henry J. Morgan, Com'r.

Thos. S. Ely, Guardian &c
vs. } Comrs Report.
Precious Long & others
Filed Mar 17th 1878.
James W Orr. clerk.

Comrs Fee \$9.⁰⁰

1. Commissioner's Office, Jonesville Va. March 19 1878.
Thos. S. Ely, Guardian &c. Plff

vs.

Precious Long & others

Defts

In Chiq.

To Hon. John A. Kelly, Judge of the Circuit Court of Lee County: Just a few days ago, I made a report in this cause responding to the several enquiries submitted by a Decree heretofore entered in the cause. I made that report in reference to the rental value of the land upon the evidence then before me. On the 16th of the present month, the Plff & the Deft, Francis Holliday, again appeared before me, when the Plaintiff introduced four other witnesses with reference to the rental value of the land under consideration, whose depositions I reduced to writing, and herewith file the same, marked (C).

The witnesses thus introduced by the Plaintiff are Richd. M. Hamblen, Jos. H. Ewing, N. N. E. Beatty, and Thos. Beatty (colored).

The evidence of these witnesses, taken in conjunction with those already taken by me, and referred to by me in my first report, makes it necessary, in my opinion, to change my report as to the rental value of the land under consideration, so as to make it conform to the present state of evidence, as increased by these additional witnesses.

In my first report, it will be observed, that I fixed the annual rental value of the land under

consideration at \$22.⁰⁰ per year, & this estimate I thought I was warranted, by the proof then before me, in making, being a sort of mean between the two extremes.

Based upon all the evidence now before me, I am of opinion, that said lands are reasonably worth \$37.50 per year, or \$1.50 per acre for each year; and, as Deft Holliday has used and occupied the same for 8 years, according to this estimate, he would have to pay to the Plaintiff the sum of three hundred dollars, and that sum I now report as the rental value of said lands for last 8 years in favor of the Plff, for the benefit of his wards, with interest thereon from Jan'y 1st 1878.

Respectfully submitted.

Henry J. Morgan, Comr &c

The within reports are excepted to become
the Commission's disallow interest from the
end of each year - only allowing from 15 Jan 1878
July 5th 1878
Hayden & Parson

Com's the \$3.00

Thos. J. Ely, Guardian
of the Monumental Port
Securities & Property
Filed March 19th 1878.
J. M. C. C.

To the Honorable John A. Kelly Judge of
the Circuit Court of Lee County Virginia

The undersigned a special commissioner in
the Chancery cause of Thomas J. Ely Guardian
begs leave to report that in pursuance of
a decree heretofore rendered in said cause
he has examined the bond of the p[er]ff as
guarantee as aforesaid and his security, to
be C. L. Hamblin and W. H. Anderson, the
latter of whom is now insolvent, but the
former amply good for the amount of the
bond \$1000. He therefore recommends the pay-
ment of the purchase money over to him
which said complainant undoubtedly is now
ready, as one of his said wards, has now
attained the age of 21 years, and can re-
ceive his own part, but as Henry Long has
not attained at age. All of which is re-
spectfully submitted.

A. L. Pickens

Elle Guorel & c

21 } St. L. Videmus
Cent. Report.

Prucius Long et al.

To the Honorable John A. Kelly Judge
of the Circuit Court of Lee County Va

The undersigned Commissioner in
the case of Thomas S. Ely Guardian ~~per~~
against Precious Long, et al., begs leave
to state that in pursuance of the decree
heretofore rendered in this case, he gave
notice and on the 27 day of March 1879, that
being court day offered for sale, and
sold said to one John McAfee the land
in the bill mentioned at its gross price of
\$230.00 there being 28-acres of the same.
That being the highest and best bid. Your
Commissioner, required the estimated costs
of \$51.00 to be paid in hand together with his
Commission \$11.50. making the sum of \$62.50
paid in hand. leaving net proceeds of land
\$167.50. Your Commissioner was informed
by Francis Halliday that he had purchased
and was the owner of Precious Long's share
so that he would be entitled to have that
share assigned, to him, and the purchaser to a
deduction of that sum \$41.85: which deducted
from the sum above leave for the three
separately the sum of \$122.65. - Your com-
missioner had anticipated a better sale
and used all his exertions to procure
a better price - Mr. Halliday in whose

this land is situated and around which his land
lies was present or bidding and it would
seem under those circumstances a man
would pay all that it was worth rather than
have this narrow strip run through the
center of a valuable farm - For the loss of
this land Mr. Holliday has received or
reboots of about \$75 per acre against the
bids of his vendors, but that more than
reasonable. Your Commissioner is not
advised by any of the infaulty friends that
more can be procured on a re-sale - Nor
is your Commissioner satisfied that the
land brought its worth - Yet under all
the circumstances he sees no good to
be accomplished by a future sale.

All of which is respectfully sub-
mitted -

A. L. Redinore
Commissioner

20th

Elly Guardian &c

as } Leimmanian
Prudmore, Repur

Prop.
Prudmore Long et al

1879 Oct. 28th Filed
Jas. W. Orr, Clerk

Confirms Sale &c

To the Hon. John A. Kelly Judge of
the Circuit Court of Lee County Va
The undersigned Commissioner who was
appointed in the Chancery Cause of
Thomas S. Ely Guard & c v. Precious Long
and others begs leave to report - That
in obedience to former orders and de-
crees in this cause, after making the
deduction of Precious Long's interest as by
a former decree directed he has collected
and paid over to the plff the residue
of the purchase money, and the said
Holiday interest in the share purchased
from Precious Long as been credited on
the decree against him - So that the
purchaser is now, entitled to deed for
the land so sold to him in the bill or
proceedings mentioned. All of which
is respectfully submitted.

A. L. Pickens
Comm.

Thomas S. Ely Guent 4-

2-3 } Comm Prudum
Report.

Prudum Long et al

Filed March 7. 1883

J. A. Hyatt
Clerk

To the Hon. John A. Kelly Judge of
the Circuit Court of Lee County Va

Your undersigned Commissioner
who was by a decree in the Chancery
Cause of Thomas D. Ely Guardian &c
against Francis Long, directed to make
conveyance of certain land, by
him sold in said cause to John
McAffee. Begs leave to report - that
in pursuance with said order he
has made & acknowledged said deed
with covenants of special warranty
and herewith files the same for the in-
spection of this Court - which if
approved disposes of all the questions
in said cause. All of which
is respectfully submitted.

A. L. Ordemann
Comm.

1
Thos J. Ely Auditor

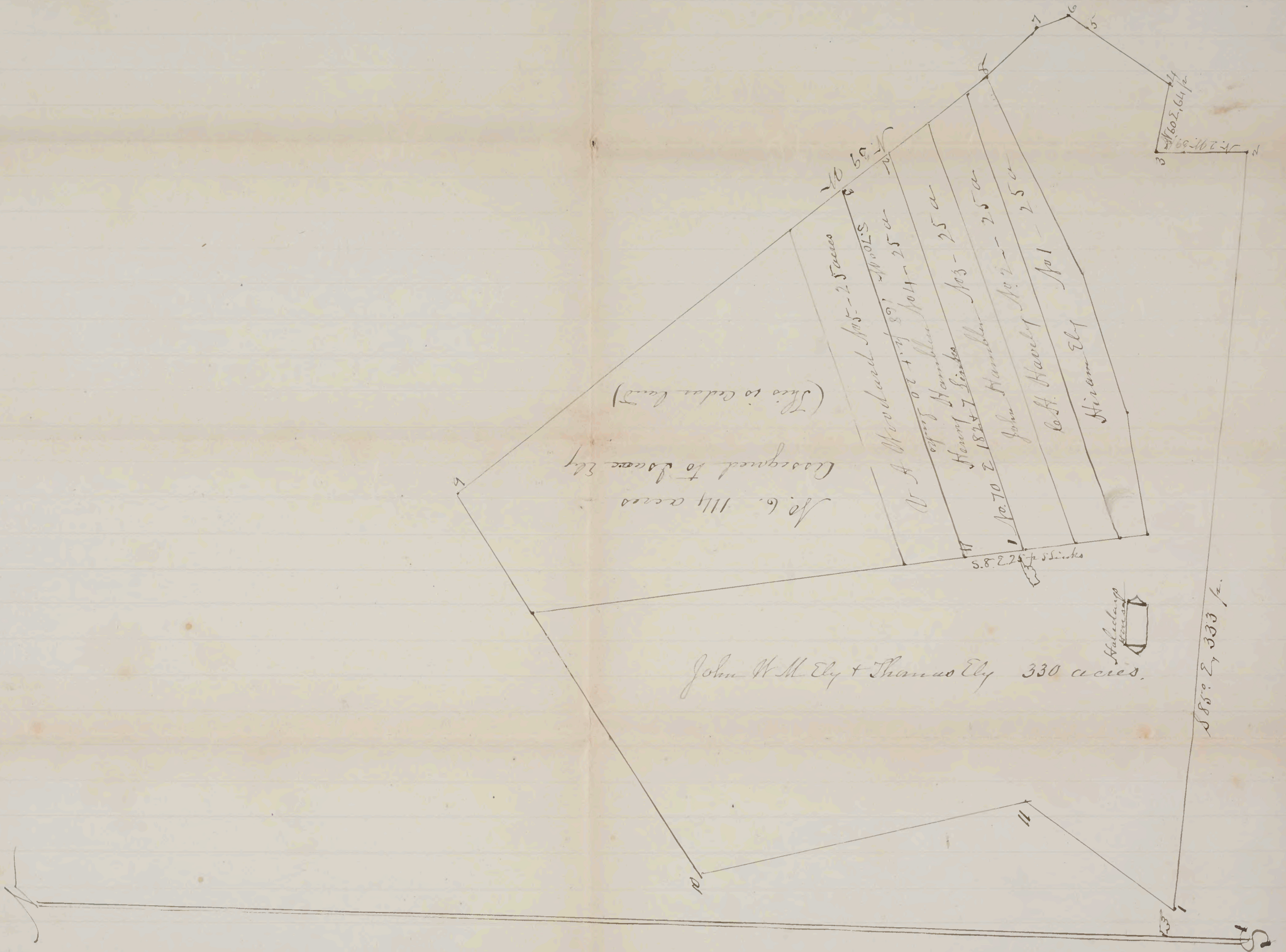
vs A. S. Pullman & Co
Final Report

Pacific Lumber Co

Filed in court at
Nov. Term 1883.

J A Hyatt
Clerk

June 19 1869



Plot of R Ely Tract
& also.

Plot of 25 acres belonging
to
Infants Defendants.

(A)

All objections to the form of
this Suit and all ~~other~~ de-
murrers are hereby waived and
all the legal and equitable
rights of the parties in this
Cause shall be settled without
regard to form,

Hagan & Doremus atty
August 18th 1878 for the Plff.
Francis Holliday

Thomas S. Ely Guardian ^{to}

vs. } agreement

3.
Precious Long
& others

"B"

"

Virginia,

At a Circuit Court continued and held for Lee County,
Ly, at the Court-House thereof, on Tuesday, the 2nd
day of December 1879.

Thos. S. Ely, Guardian &c.
against

Plaintiff

Precious Long et als.

Defendants

In Chy.

xxxxxx And the petition of said Holliday being now
filed, a rule is awarded against Precious Long and
Thomas S. Ely, returnable to the next term to shew cause,
if any they can, why the share of Precious Long in the pur-
chase money should not be paid to Francis Holliday, and why
her interest in the rents recovered against said Holliday should
not be credited on the decree therefor. And the cause is continued.

Teste - James W. Orr, Clerk.

Ely (S)

Thos S. Ely, Guardian
for

vs. { Rules & Precious Long
et al.

Precious Long et al

March Term 1880.

Executed

Thos S Ely Clerk

Thos S. Ely Guardian

vs

Exemptions

J. Holaday et al

The defendant Holaday,
Except to Commissioner Morgan's
report in so far as it allows
annuities & years rents against
him in favor of the pfs.
Because he says Bent, from
whome he purchased, and under
whome he took possession, brought
the 25 acres of land of Long
cove wife and they conveyed
it to him, and he held it as
a purchaser under his deed
averse to the center of the
woods, and averse to the woods
and the deft Holaday bought the
fee from Bent, and held it
averse to also, therefore whether
the deed passed the title of Mrs
Long or not, the pfs remedy
to recover the land or the rents
was at law and not in
chancery, and no decree should
be rendered on the said report
Because the deft Holaday, was
in the adverse possession of
the lands, and the statute of

Limitations is a Bar to a recovery
of all rents that have accrued
5 years before the suit was begun
on (the 25th of April 1876)

3. the assessment of rents by the com-
missioner is excessively high
and more than the proof
warrants

4th The Supplemental report is
excepted to and all the evidence
taken thereon, because before
it was made the Commissioner
had made out and returned
his report, pursuant to the dec-
ree appointing him, and all
his authority had ended
in making his Supplemental
report, and taking evidence
thereon was unauthorized and
illegal, and should not be
considered in the cause.†

Miller & Burns For
The Plaintiff

W. H. H. H.

and } Exceptions

Ely function

Filed Apr 3rd 1878.
Jas W. Cox Clerk.

† The report charges rent
for the year 1870 and
the Bill only claims
it from & after 1871
two more years rent is
allowed than is claimed
in the Bill.

The Commonwealth of Virginia:

To The Sheriff of Lee County:—Greeting.

WE COMMAND YOU TO SUMMON

*Francis Halliday, Richard B. Beaty,
Napoleon E. Beaty, Samuel H. Beaty, Wm H. Beaty, John P. Beaty,
Charles C. Baylor & Harriett Baylor his wife, Judson Hatcher &
Emily Hatcher his wife, Cornelius Beaty, Preston Long, Henry
Long, Alice Long and Magnus Long.*

to appear before the Judge of the *Circuit* Court of Lee County, at the Court-house, in the
Clerk's Office, *at June* Rules next, to answer a bill in chancery, ex-
hibited in our said Court against *them by Thomas S. Ely Guardian*

And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court, at the
Court-house, this *25th* day *April*, 1876, in the *100th* year of the Commonwealth.

James W. Orr, Clerk.

L.A.P.
Thos. S. Ely Guardian

vs { Dea in. Chy
15 Copies

Francis Halliday et als

June Rules 1876.

Exempted by delivering a copy
of the within to Francis Holly
day Richard B. Beatty, J. E. Beatty
Samuel M. Beatty J. H. Beatty
John P. Beatty Charles C. Baylor
Harrieth Baylor Judson Hatcher
Emily Hatcher Cornelia Beatty
Dorcas Long Henry Long
Alice Long and Magnus Long
Thos. S. Ely & Co.